

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ORLANDO BENITEZ,

Plaintiff,

v.

C.A. NO.: 1:10-cv-436

BARRI FINANCIAL GROUP, INC.
d/b/a BARRI REMITTANCE
CORPORATION,

Defendants.

_____ /

ORIGINAL COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, ORLANDO BENITEZ, by and through his undersigned counsel and sues the Defendant, BARRI FINANCIAL GROUP, INC. d/b/a BARRI REMITTANCE CORPORATION, and in support thereof states as follows:

1. Plaintiff, ORLANDO BENITEZ, brings this action for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. §216(b).
2. Plaintiff is an individual residing in Travis County, Texas.
3. Defendant is a corporation formed and existing under the laws of the State of Texas and maintains an office in Austin, Travis County, Texas.
4. Jurisdiction is conferred on this Court by Title 28 U.S.C. §1337 and by Title 29 U.S.C. §216(b). At all time pertinent to this material to this complaint, Defendant was an enterprise engaged in interstate commerce. At all times pertinent to this Complaint, Defendant regularly owned and operated a business engaged in commerce or in the production of goods for commerce as defined by §3(r) and 3(s) of the Act, 29 U.S.C. §203(r) and 203(s). Additionally, Plaintiff was individually engaged in commerce and his work was essential to Defendant's business. Venue is proper in this

district under 28 U.S.C. § 1391.

5. The Plaintiff has worked for Defendant from May 2005 through June 2009 as a Cashier in Austin, Travis County, Texas.

6. During one or more weeks of Plaintiff's employment with Defendant, Plaintiff has worked in excess of forty (40) hours (overtime hours).

7. Defendant has willfully failed to pay Plaintiff one and one-half times his regular rate of pay for each overtime hour worked.

8. The acts described in the preceding paragraph violate the Fair Labor Standards Act, which prohibits the denial of overtime compensation for hours worked in excess of forty (40) per workweek. The Defendant willfully violated Plaintiff's right to overtime compensation under the FLSA.

9. As a result of Defendants' unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of overtime which was not paid and which should have been paid.

10. Section 216(b) of the FLSA provides that any employer who violates the statute shall be liable for unpaid overtime pay and an additional equal amount as liquidated damages. Therefore, Plaintiff seeks an award of liquidated damages in an equal amount as the amount of unpaid overtime pay.

11. Plaintiff further seeks liquidated damages as a result of Defendants' willful failure and refusal to pay overtime in violation of Section 7 of the FLSA, 29 U.S.C. § 207.

12. Plaintiff also seeks compensation of the out of pocket expenses and costs of court he will have incurred in this action. Plaintiff is also entitled to reasonable and necessary attorneys fees pursuant to 29 U.S.C. § 216(b).

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that:

1. The Court assume jurisdiction of this cause and that Defendant be cited to appear;
2. The Court award damages to Plaintiff as specified above;
3. The Court award reasonable and necessary attorneys' and expert fees and costs;
4. The Court award Plaintiff pre-and post-judgment interest at the highest rates allowed.

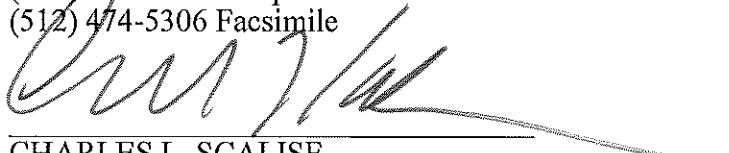
Plaintiff further prays for any such other relief as the Court may find proper, whether at law or in equity.

Respectfully submitted this 17th day of June 2010.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

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